

105TH CONGRESS
1ST SESSION

S. 439

To provide for Alaska State jurisdiction over small hydroelectric projects, to address voluntary licensing of hydroelectric projects on fresh waters in the State of Hawaii, to provide an exemption for portion of a hydroelectric project located in the State of New Mexico, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 13, 1997

Mr. MURKOWSKI (for himself, Mr. AKAKA, Mr. DOMENICI, and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources.

A BILL

To provide for Alaska State jurisdiction over small hydroelectric projects, to address voluntary licensing of hydroelectric projects on fresh waters in the State of Hawaii, to provide an exemption for portion of a hydroelectric project located in the State of New Mexico, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION. 1. ALASKA STATE JURISDICTION OVER SMALL**
2 **HYDROELECTRIC PROJECTS.**

3 The Federal Power Act, as amended (16 U.S.C.
4 1791a et seq.) is further amended by adding the following
5 at the end of section 23:

6 “(c) In the case of any project works in the State
7 of Alaska—

8 “(1) that are not part of a project licensed
9 under this Act prior to the date of enactment of this
10 subsection;

11 “(2) for which a preliminary permit or a license
12 application has not been accepted for filing by the
13 Commission prior to the date of enactment of this
14 subsection (unless such application is withdrawn at
15 the election of the applicant);

16 “(3) that have a power production capacity of
17 5,000 kilowatts or less;

18 “(4) that are located entirely within the bound-
19 aries of the State of Alaska; and

20 “(5) that are not located in whole or in part on
21 any Indian reservation, unit of the National Park
22 System, component of the Wild and Scenic Rivers
23 System or segment of a river designated for study
24 for potential addition to such system,

25 the State of Alaska shall have the exclusive authority to
26 authorize such project works under State law, in lieu of

1 licensing by the Commission under the otherwise applica-
2 ble provisions of this part, effective upon the date on which
3 the Governor of the State of Alaska notifies the Secretary
4 of Energy that the State has in place a process for regu-
5 lating such projects which gives appropriate consideration
6 to the improvement or development of the State's water-
7 ways for the use or benefit of intrastate, interstate, or for-
8 eign commerce, for the improvement and use of water-
9 power development, for the adequate protection, mitiga-
10 tion of damage to, and enhancement of fish and wildlife
11 (including related spawning grounds), and for other bene-
12 ficial public uses, including irrigation, flood control, water
13 supply, recreational and other purposes, and Indian
14 rights, if applicable.

15 “(d) In the case of a project that would be subject
16 to authorization by the State under subsection (c) but for
17 the fact that the project has been licensed by the Commis-
18 sion prior to the enactment of subsection (c), the licensee
19 of such project may in its discretion elect to make the
20 project subject to the authorizing authority of the State.

21 “(e) With respect to projects located in whole or in
22 part on Federal lands, State authorizations for project
23 works pursuant to subsection (c) of this section shall be
24 subject to the approval of the Secretary having jurisdiction

1 with respect to such lands and subject to such terms and
 2 conditions as the Secretary may prescribe.”

3 “(f) Nothing in subsection (c) shall preempt the
 4 application of Federal environment, natural, or cul-
 5 tural resources protection laws according to their
 6 terms.”.

7 **SEC. 2. VOLUNTARY LICENSING OF HYDROELECTRIC**
 8 **PROJECTS ON FRESH WATERS IN THE STATE**
 9 **OF HAWAII.**

10 Section 4(e) of the Federal Power Act is amended
 11 by striking “several States, or upon” and inserting “sev-
 12 eral States (except fresh waters in the State of Hawaii,
 13 unless a license would be required by section 23 of the
 14 Act), or upon”.

15 **SEC. 3. LIMITED EXEMPTION FOR TRANSMISSION FACILI-**
 16 **TIES ASSOCIATED WITH THE EL VADO HY-**
 17 **DROELECTRIC PROJECT.**

18 (a) Part I of the Federal Power Act, and the jurisdic-
 19 tion of the Federal Energy Regulatory Commission under
 20 such part I, shall not apply to the transmission line facili-
 21 ties associated with the El Vado Hydroelectric project
 22 (FERC project No. 5226) which are described in sub-
 23 section (b).

24 (b) The facilities to which the exemption under sub-
 25 section (a) applies are those transmission facilities located

1 near the Rio Chama, a tributary of the Rio Grande, in
 2 Rio Arriba County, New Mexico, referred to as the El
 3 Vado transmission line, a three phase 12-mile long 69 kV
 4 power line installed within a 50-foot wide right-of-way in
 5 Rio Arriba County, New Mexico, originating at the El
 6 Vado project's switchyard and connecting to the Spills 69
 7 kV switching station operated by the Northern Arriba
 8 Electric Cooperative Inc.

9 **SEC. 4. FERC EXTENSION OF COMMENCEMENT OF CON-**
 10 **STRUCTION DEADLINE FOR HYDROELECTRIC**
 11 **PROJECTS.**

12 The second sentence in section 13 of the Federal
 13 Power Act (15 U.S.C. 806) is amended to read as follows:
 14 “The period for the commencement of construction may
 15 be extended by the Commission for not longer than ten
 16 years from the issuance date of the license when not in-
 17 compatible with the public interest, and the period for the
 18 completion of construction carried on in good faith and
 19 with reasonable diligence may be extended by the Commis-
 20 sion when not incompatible with the public interest.”.

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